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25 JUN 2007

In re Application of  
Warner  
Application No.: 10/527,046  
PCT No.: PCT/GB03/03895  
Int. Filing Date: 09 September 2003  
Priority Date: 13 September 2002  
Attorney Docket No.: 920602-98737  
For: Construction Kit

DECISION

ON

PETITION

This is a decision on applicants' renewed petition under 37 CFR 1.181 filed on 23 May 2007.

### DISCUSSION

In a Decision mailed on 14 May 2007, the renewed petition to withdraw the holding of abandonment filed on 05 April 2007 was dismissed without prejudice because

Though counsel states that the submitted sheets are in fact "the docket record of the firm," and that the requested "tickler sheet" can no longer be generated, it is not clear how the submitted sheets were generated (and therefore, it is not clear that they should be accepted as a record of all of the cases docketed for reply on 22 September 2005). That is, was petitioner working from a list of all cases having a "Base Date" of 22 July 2005 and, if so, why has that list not been furnished? An additional concern is that, in compiling the submission, petitioner may inadvertently have overlooked other cases with the same "Base Date" or otherwise docketed for reply on 22 September 2005. For these reasons, it would not be appropriate to conclude that requirement (3) has been satisfied at this time.

In response, petitioner states that

The records previously provided to the Patent and Trademark Office were all those U.S. matters having an indicated date of September 22, 2005 and a base date of July 22, 2005. Those provided were all of the records of the firm of the undersigned having a base date of July 22, 2005 no matter when the final due date may have been. No cases were overlooked, and all U.S. cases having a July 22, 2005 base date (that is, of mailing by the Patent and Trademark office) have been included. As can be seen, there is no record for this application because no Notification of Missing Requirements was ever received.

So that there is no question, also submitted herewith is the record of all matters (not just U.S.) having the base date of July 22, 2005. The first sheet is a summary of the following 28 sheets. Again, as would be expected since the PTO has seen all U.S. matters, there is no record for this application.

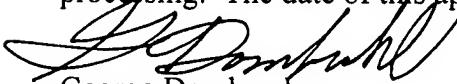
Upon consideration of the totality of the evidence of record, including the docket records accompanying the instant renewed petition as well as petitioner's arguments, it would be

appropriate to conclude that requirement (3) has now been satisfied. Therefore, the Notification of Abandonment (Form PCT/DO/EO/909) mailed on 26 April 2006 is hereby VACATED.

**CONCLUSION**

The petition to withdraw the holding of abandonment is GRANTED.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371(c)(1), (2) and (4) is 08 May 2006.

  
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